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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,393	11/06/2001	Kevin B. Tucek	206-004	2866
7590	09/09/2004		EXAMINER	
Sandra L. Etherton Etherton Law Group, LLC P.O. Box 27843 Tempe, AZ 85285-7843			FARAH, AHMED M	
			ART UNIT	PAPER NUMBER
			3739	

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/008,393	Kevin B. Tucek	
	<b>Examiner</b>	<b>Art Unit</b>	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-34 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-19 is/are allowed.
- 6) Claim(s) 20-34 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - a) All b) Some \* c) None of the CERTIFIED copies of the priority documents have been:
    1. received.
    2. received in Application No. (Series Code / Serial Number) \_\_\_\_\_.
    3. received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

#### Attachment(s)

15) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
17) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	20) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 20, 21, 23, 24, 26, 28, 29, 31, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohshiro et al., US Patent No. 4,905,690 in view of Blum et al. US Patent No. 4,784,135.

Ohshiro et al. teaches a semiconductor laser treatment device in which it is disclosed that the device contains (a) a wand regarded as a radiation delivery device, 1, and is regarded as being a substantially elongated hollow tube; (b) means for generating a laser beam via semiconductor laser 10; (c) a collimating lens or cylindrical lens, 19; (d) a housing separate from the wand, which is shown in Figure 8; (e) means for supplying electrical power to the laser generation means contained in the wand; (f) means for electrically connecting the wand to the housing via a cable, 66; (g) means for controlling a period of time of laser generation via the time control circuit, 39.

Additionally, see Figures 1, 7, and 8. The laser diode is regarded as being of the type which uses less than one watt of power, since this device is for use in the treatment of tissue and a large power usage would cause damage to the tissue. Finally, as shown in Figures 8 and 9, the housing contains a cradle for releasably securing the wand therein.

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Ohshiro does not teach that there is a means for transforming the generated beam of laser light into a line of laser light. Blum et al teaches an alternative optical treatment device in which it is stated on column 4, line 63-65. that it is known to focus light along a line for the medical procedure. Therefore, it would have been obvious to one skilled in the art to modify the device of Ohshiro et al. with Blum et al to provide a laser line focusing means as an known alternative means of focusing the light onto the tissue for treatment.

3. Claims 22, 25, 27, 30, 33, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohshiro et al. and Blum et al as applied to claims 20, 21, 23, 24, 26, 28, 29, 31, and 32, 26, 31, and 32 above, and further in view of Meserol US Patent No. 5,474,528.

Ohshiro et al. and Blum et al. do not teach that the means for supplying electrical energy is a battery or that a clip is contained on the housing in order to allow the device to be worn on an article of clothing of the user of the device. Meserol teaches another alternative medical treatment device in which it is disclosed in Figure 7 that it is known to power medical laser treatment devices with batteries, 78, and that a clip, 73, can be used in order to permit the device to be clipped onto an article of clothing. Additionally see column 9, lines 37-41, and column 9, lines 12-16, respectively. Therefore, it would have been obvious to one skilled in the art to modify the combined device of Ohshiro et al and Blum et al. to provide batteries as the power supply as an alternative, equivalent means to energize the device and to provide a clip on the housing in order to permit the device to be worn by a user, which facilitates portability of the device in order to free the

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hands of a user during use.

***Allowable Subject Matter***

4. Claims 1-19 are allowed. The prior art of record do not disclose, teach, or suggest a hand-held laser light generator device for use in medical therapy, said device comprising: (a) a wand in the form of a substantially elongated hollow tube defining an interior cavity and capable of being retained in a hand of a user and freely moved relative to the surface of the skin of a patient to receive the medical therapy; (b) means mounted in said interior cavity of said wand for generating a beam of laser light in the red color spectrum; (c) an optical arrangement mounted in said interior cavity of said wand for receiving the red color spectrum generated beam of laser light from said generating means and for transforming the generated beam of laser light into a substantially planar beam of laser light disposed externally of said wand for producing a line of laser light in the red color spectrum at a desired location on the surface of the patient's skin and with said line of laser light being visible to the user as said wand is held and freely moved by the user in a spaced relationship from and out of contact with the patient as presently claimed.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent No. 5,755,752 to Segal discloses an alternative laser therapy device in which a wand containing a laser diode is used remote from control

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unit and connected via an electrical cable. Segal further teaches that a portable battery can power the diode laser system, see col. 3, lines34-37.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ahmed M Farah whose telephone number is (703) 305-5787. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M DVorak can be reached on (703) 308-0994. the official fax number for the group is (703) 872-9302; the fax number for After Final is (703) 872-9303; and the Examiner's Desk-to fax is (703) 746-3368.

**A. M. Farah**

**Patent Examiner (Art Unit 3739)**



September 27, 2003.